



**RECEIVED
CENTRAL FAX CENTER**

APR 27 2007
1600 Lincoln Street, Suite 2050
Denver CO 80264
(303) 830-1776

Facsimile: (303) 894-9239

FAX TRANSMISSION

DATE: April 27, 2007

PTO IDENTIFIER: Application Number 09/766,736-Conf. #1298
Patent Number

Inventor: Edward J. Bortolini et al.

MESSAGE TO: US Patent and Trademark Office (MS APPEAL BRIEF – PATENTS)

FAX NUMBER: (571) 273-8300

FROM: PATTON BOGGS LLP

James M. Graziano

PHONE: (303) 830-1776

Attorney Dkt. #: 013436.0235PTUS (Bortolini 6-7-1)

PAGES (Including Cover Sheet): 4

CONTENTS: Certificate of Transmission (1 page)
Response To Notification Of Non-Compliant Appeal Brief (37 CFR 41.37) mailed 04/10/2007
(1 page)
Replacement Page 3 of Appeal Brief (1 page)

If your receipt of this transmission is in error, please notify this firm immediately by collect call to sender at (303) 830-1776 and send the original transmission to us by return mail at the address below.

This transmission is intended for the sole use of the individual and entity to whom it is addressed, and may contain information that is privileged, confidential and exempt from disclosure under applicable law. You are hereby notified that any dissemination, distribution or duplication of this transmission by someone other than the intended addressee or its designated agent is strictly prohibited.

PATTON BOGGS LLP
1801 California Street, Suite 4900, Denver, Colorado 80202-2613
Telephone: (303) 830-1776 Facsimile: (303) 894-9239

**RECEIVED
CENTRAL FAX CENTER****APR 27 2007 USPTO/SB/97 (09-04)**Approved for use through 07/31/2006. OMB 0651-0031
U. S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

Application No. (if known): 09/766,736

Attorney Docket No.: 013436.0235PTUS
(Bortolini 6-7-1)**Certificate of Transmission under 37 CFR 1.8**

I hereby certify that this correspondence is being facsimile transmitted to the United States Patent and Trademark Office (MS APPEAL BRIEF – PATENTS).

on April 27, 2007
DateElaine C. VonSpreckelsen

Signature

Elaine C. VonSpreckelsen

Typed or printed name of person signing Certificate

N/A
Registration Number, if applicable(303) 894-6163
Telephone Number

Note: Each paper must have its own certificate of transmission, or this certificate must identify each submitted paper.

1. Response To Notification Of Non-Compliant Appeal Brief (37 CFR 41.37)
mailed 04/10/2007 (1 page)
2. Replacement Page 3 of Appeal Brief (1 page)

RECEIVED
CENTRAL FAX CENTER
APR 27 2007

Docket No.: 013436.0235PTUS
(Bartolini 6-7-1)
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Edward J. Bartolini et al.

Appellant: Lucent Technologies, Inc.

Application No.: 09/766,736

Confirmation No.: 1298

Filed: January 22, 2001

Art Unit: 2611

For: DISTRIBUTED BROADBAND CABLE
MODEM TERMINATION SYSTEM

Examiner: U. Raman

RESPONSE TO NOTIFICATION OF NON-COMPLIANT APPEAL BRIEF
(37 CFR 41.37)

MS APPEAL BRIEF - PATENTS
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

INTRODUCTORY COMMENTS

In response to the Notification Of Non-Compliant Appeal Brief dated April 10, 2007, attached please find a replacement Page 3 to the Appeal Brief. As required, Paragraph 3.) Status Of The Claims has been amended to add the following sentence:

Claims 1, 6, and 11 – 24 are appealed.

Appellant believes no fee is due with this response. However, if a fee is due, please charge our Deposit Account No. 50-1848, under Order No. 013436.0235PTUS from which the undersigned is authorized to draw.

Respectfully submitted,
PATTON BOGGS LLP

Dated: 27 April 2007

By: James M. Graziano
James M. Graziano
Registration No.: 28,300
(303) 830-1776
(303) 894-9239 (Fax)
Attorney for Applicants

Customer No. 24283
254635

Application No. 09/766,736
Appellant's Appeal Brief

Docket No.: 013436.0235PTUS
(Bortolini 6-7-1)

List of References

Appellant's admitted prior art system as disclosed in Figure 2 of the disclosure

OUTLINE OF APPEAL BRIEF

1.) REAL PARTY IN INTEREST

The party named in the caption of the Appeal Brief is Lucent Technologies, Inc.

A full list of inventors is: Edward J. Bortolini, Chia Chang Li, and Roger W. Loots.

The subject matter of the invention was derived from research efforts undertaken by Edward J. Bortolini, Chia Chang Li, and Roger W. Loots in March 2000.

The rights to the present invention were assigned by the inventors, Edward J. Bortolini, Chia Chang Li, and Roger W. Loots in an Assignment document dated 04 December 2000, 12 December 2000, and 15 January 2001, respectively, filed on 22 January 2001, recorded at Reel 011498, Frame 0078 on 22 January 2001, and re-recorded at Reel 011788, Frame 0313 on 07 May 2001.

The real party of interest is accordingly Lucent Technologies, Inc., because Lucent Technologies, Inc. owns the entire right, title, and interest to the present invention.

2.) RELATED APPEALS AND INTERFERENCES

Currently, no appeals or interferences are known by any party.

3.) STATUS OF THE CLAIMS

Claims 1, 6, and 11 – 24 are pending and all are rejected. In the Final Office Action mailed 19 October 2006, claims 6 and 21 – 24 have been rejected under 35 USC §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Appellant regards as the invention. Claims 1, 6, and 11 – 24 have been further rejected under 35 USC §102(b) as being anticipated by Appellant's admitted prior art system as disclosed in Figure 2 of the disclosure. Claims 1, 6, and 11 – 24 are appealed.